

ORIGINAL

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

IN THE MATTER OF: * EB DOCKET NO. 08-85
BUSINESS OPTIONS, INC., * FILE NO. EB-02-TC-151
ORDER TO SHOW CAUSE AND * NAL ACCOUNT NUMBER:
NOTICE OF OPPORTUNITY * 30033217002
FOR HEARING * FRN: 0007179054

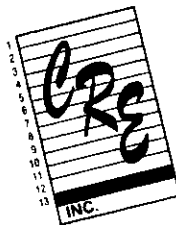
* * * * *

DEPOSITION OF:

GENE CHILL,

was taken Thursday, July 17, 2003, commencing at
9:30 a.m., at the LaQuinta Inn, 8210 Louisiana
Street, Merrillville, Indiana, before MaryAnn
Herr, Notary Public.

* * * * *



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1 APPEARANCES:

2

3 On behalf of the BUSINESS OPTIONS:

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7

8 On behalf of the FCC:

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I - N - D - E - X

EXAMINATION BY:

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Mr. Harkrader

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Mr. Hawa

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Mr. Harkrader

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Mr. Hawa

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(NO EXHIBITS MARKED.)

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1 P-R-O-C-E-E-D-I-N-G-S

2 WHEREUPON --

3 GENE CHILL,

4 a Witness called for examination, having been
5 first duly sworn, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. HARKRADER:

9 Q. Good morning, Mr. Chill. Will you
10 please state your name for the record.

11 A. Gene, G-E-N-E, Jeffrey, J-E-F-F-R-E-Y,
12 Chill, C-H-I-L-L.

13 Q. And do you have a work address
14 currently?

15 A. I don't.

16 Q. Do you have a home address?

17 A. I do.

18 Q. What is that?

19 A. 1521 Essex, E-S-S-E-X, Drive,
20 Chesterton, Indiana 46304.

21 Q. Your date of birth?

1 A. 4-4-57.

2 Q. April 4th of '57?

3 A. Yes.

4 Q. You live in Chesterton?

5 A. That's correct.

6 Q. How far away is that from
7 Merrillville?

8 A. The way I drive, about 40 minutes.
9 You would probably take a half hour.

10 Q. My colleague probably wouldn't. He's
11 a rather slow driver.

12 A. Then he would take 40 minutes like
13 myself.

14 Q. Did there come a time when you were
15 employed by Business Options or Buzz Telecom?

16 A. Yes, sir.

17 Q. When was that?

18 A. My first day was the 20th of May,
19 2002.

20 Q. Was that with Buzz or Business
21 Options?

1 A. The company that wrote my checks, I
2 believe, was U.S. Bell.

3 Q. And when you started, did you have an
4 understanding as to the relationship between
5 Business Options and U.S. Bell?

6 A. I grew to learn it.

7 Q. And what was your understanding?

8 A. I'll say it as best I can. Business
9 Options was an earlier entity and the name of the
10 product, and it was under the umbrella of that
11 which is now called U.S. Bell.

12 Q. Did there come a time when U.S. Bell
13 changed its name?

14 A. Yes.

15 Q. Was that while you were employed with
16 U.S. Bell?

17 A. Yes. That's correct.

18 Q. What was that new name?

19 A. Buzz Telecom.

20 Q. Do you remember approximately when
21 that name change took place?

1 A. I do. I'm recalling July 31st, 2002.
2 It may have been July the 1st of 2002. It was
3 that month. I can't remember if it was the very
4 first or the very last day of the month.

5 Q. What business was U.S. Bell and then
6 Buzz Telecom in?

7 A. I'm sorry?

8 Q. What business was U.S. Bell and then
9 Buzz Telecom in?

10 A. Providing a long distance product to
11 residential customers.

12 Q. Before you were hired at U.S. Bell,
13 did you have any experience in the
14 telecommunications industry?

15 A. Not a day.

16 Q. Did you have any experience in
17 responding to or generally dealing with state
18 regulatory agencies?

19 A. Not even a day, sir.

20 Q. How about the same with respect to
21 federal regulatory agencies?

1 A. Not a day.

2 Q. Did you have any legal research
3 experience?

4 A. No, sir.

5 Q. Any legal experience at all?

6 A. Not a bit.

7 Q. What was your position when you were
8 hired in May of 2002 by U.S. Bell?

9 A. Called vice president of
10 administration.

11 Q. Can you generally give me what your
12 responsibilities were at the time you were hired?

13 A. Sure. Two areas, two main areas that
14 I was asked to contribute to were internal
15 personnel matters and marketing.

16 Q. What were your responsibilities with
17 respect to the internal personnel matters?

18 A. Hiring, firing, human resource issues,
19 disciplinary action, interoffice communications.
20 And I think that says it.

21 Q. Could you expand upon interoffice

1 communications? What does that mean?

2 A. We had a communications center, just a
3 way of making sure dispatches got from one part
4 of the company to another, and that just came
5 under my responsibility to make sure it was
6 properly maintained. I had a junior personnel
7 who was called the director of communications who
8 had to make sure that the mail got properly
9 sorted, properly routed to the right people.

10 Q. When you started with U.S. Bell, did
11 it have more than one office?

12 A. No.

13 Q. Do you recall where U.S. Bell's
14 offices were when you started?

15 A. Well, of course. Where they remain
16 now, on Louisiana.

17 Q. Can you tell me some of your
18 responsibilities in the marketing area?

19 A. Sure. I was hired largely because
20 Kurtis wanted me to maybe think of clever ways to
21 market our product. I also was involved in

1 developing marketing programs for alternative
2 companies. We were looking to expand. Every
3 company wants to look five years down the road,
4 what should we be doing, and imagining what we
5 might be doing. Research of that nature.

6 Q. What were those other companies?

7 A. I had an idea for a publishing
8 company, to become a publishing company besides
9 just a telecom company.

10 Q. Those companies that you were thinking
11 about starting up, were any of them related to
12 the telecommunications industry?

13 A. No, sir.

14 Q. Did you know -- you referred to Kurtis
15 Kintzel. Did you know him before you were hired
16 at U.S. Bell?

17 A. I did not.

18 Q. How did you come about to be hired at
19 U.S. Bell?

20 A. Mutual friend.

21 Q. Who was that mutual friend?

1 A. A man by the name of Bill Peninger.
2 (phonetic.) Through a mutual friend in Chicago.
3 I met Bill through other acquaintances. I'm new
4 to Chicago about five or six years. And he was
5 one of my friends that I grew to know.

6 Q. Did you come to Chicago from Los
7 Angeles?

8 A. I did.

9 Q. Did you contact Mr. Kintzel about the
10 job at U.S. Bell?

11 A. I believe so. My recollection isn't
12 perfect, but I think I made the call.

13 Q. Did you give him a resume?

14 A. I'm not sure. I probably gave him a
15 letter of some kind which listed my various
16 assets, but I don't have a specific recollection.

17 Q. Did you come in for an interview?

18 A. Yes.

19 Q. Who did you interview with?

20 A. I spent the better part of a day with
21 Kurtis.

1 Q. Did you interview with anyone else?

2 A. I did not.

3 Q. Were you hired at the end of that day
4 that you met with Kurtis?

5 A. I don't think so really. We had a
6 great report and he felt I could be an asset to
7 the company. But I don't think he made his
8 decision then.

9 Q. When did you find out that he was
10 going to offer you a job?

11 A. I came back again -- I'm trying to get
12 the timing for you -- I think that first meeting
13 was in March of 2002 and I came back again. We
14 liaised over the phone a bit. I came back down
15 again in April. And if I recall that lunch,
16 Keanan joined us. I think we largely struck a
17 deal then.

18 Q. What was that deal?

19 A. Just discussed salary and he helped me
20 find a place to live. It was as simple as that.

21 Q. At the time, you were living in

1 Chicago, correct?

2 A. Correct.

3 Q. So you found a place to live out in
4 Merrillville?

5 A. Yes.

6 Q. Did you discuss your responsibilities
7 with the company at that lunch?

8 A. I did. Sure.

9 Q. Do you remember what you discussed in
10 that respect?

11 A. It was brief. It was as I just
12 described it to you.

13 Q. You said you started in May of 2002 as
14 vice president of administration?

15 A. Correct.

16 Q. And how long were you in that
17 position?

18 A. Until -- I'm going to say February of
19 2003, February of this year.

20 Q. And what happened in February of 2003?

21 A. I was moved into a strictly marketing

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1 position, and we changed the title to vice
2 president of marketing. My office was actually
3 -- I became part of Avatar. I was no longer
4 employed by Buzz Telecom. The check actually did
5 come from Buzz. But to answer your question, the
6 vice president of marketing was my new title so I
7 could focus just on those kinds of projects I
8 described earlier.

9 Q. Were you marketing -- I just want to
10 clarify this. Were you responsible for marketing
11 products to new consumers?

12 A. There were no limits on what the
13 company hoped I could dream up. I had an idea
14 for how we might package long distance. That was
15 one of the things that I was researching. And I
16 described to you my interest in helping to start
17 a publishing unit. I researched radio stations,
18 just as a venture. I was part of a team that
19 looked at property which was, again, expansion.

20 Q. With the hopes that Buzz or Avatar
21 would require a radio station or real property?

1 A. Precisely.

2 Q. Did you have any responsibility
3 starting in February of '03 with respect to what
4 I would characterize as the core business of --

5 A. Not a one.

6 Q. So, no, you were not writing
7 telemarketing scripts?

8 A. I was not.

9 Q. Did you ever write telemarketing
10 scripts?

11 A. I did not.

12 Q. Or verification scripts?

13 A. Never.

14 Q. You mentioned earlier that you had
15 some responsibilities with respect to
16 disciplining employees?

17 A. Yes.

18 Q. Did you have those responsibilities
19 from May of 2002 through February of 2003?

20 A. Correct.

21 Q. Who were the employees that you were

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1 disciplining?

2 A. Many of them.

3 Q. What did these employees do generally
4 that would cause you to discipline them?

5 A. Tardiness, that's the thing that comes
6 to mind immediately. There was a big problem
7 with tardiness, absenteeism. I suppose ordinary
8 employee stuff.

9 Q. Did you have any responsibilities for
10 disciplining employees for improper telemarketing
11 techniques?

12 A. Absolutely.

13 Q. How did you monitor that?

14 A. Two ways. We taped our employees. We
15 had a position called tape auditor, and our
16 employees were taped without their knowledge.
17 These tapes were listened to. Any violation of a
18 number of policies that we had would be brought
19 to my attention. The other way -- I said two
20 ways. The second way would just simply be
21 reports written by the manager who was walking

1 the floor.

2 Q. So if a manager was walking by a
3 telemarketer on the floor and they heard that
4 telemarketer say something that was not in
5 compliance with Buzz Telecom's standards, they
6 would make a report to you?

7 A. Correct.

8 Q. Do you recall generally how many of
9 those types of reports came to your attention in
10 a given week?

11 A. I'm certain they didn't occur every
12 week. Do you mean all of them, tardiness as
13 well?

14 Q. No. I'm talking just with respect to
15 reports that managers would give you after
16 walking the floor.

17 A. It's very hard to pinpoint a number.
18 Certainly not every week.

19 Q. What about by month?

20 A. It's very hard to answer that
21 question. There are gradients of problems. Some

1 would require -- they would be brought to my
2 attention, but it was clear it was a training
3 matter. A green person would simply omit part of
4 the script. We do have a very effective
5 corrections area, which wouldn't be discipline,
6 it would be correction. We fix this person. And
7 so that is not uncommon, especially with the
8 number of new people we would hire.

9 Those cases of a more flagrant
10 violation were rare. We were very strict.
11 People wouldn't get to the floor without it being
12 made very clear that they were to represent the
13 company. They actually had to follow the script
14 verbatim. So it generally didn't need to get to
15 me. The manager would hear it and they would
16 squash it there.

17 Q. In the roughly nine months that you
18 were in this position at U.S. Bell and then Buzz,
19 do you recall how many of these reports made it
20 to your level?

21 A. I hate to give you a number because I

1 can't actually recall. I remember a Melissa
2 Grissom (phonetic) that I terminated on the spot
3 for what I felt was a very flagrant
4 misrepresentation of our product.

5 Q. What about with respect to information
6 that the tape auditor would bring to your
7 attention?

8 A. My answer is the same. Many times it
9 would necessitate a correction. The tape
10 auditors were very good about bringing these to
11 my attention. But, in truth, the bulk of them,
12 the nature of the errors were just corrections.
13 Just a gradient disciplinary action. Which was
14 actually below my responsibility. I didn't need
15 to be involved in the correction of our
16 employees. But they would make sure I would know
17 about it, but then I would dispatch that, this
18 correction, please send to whoever was in the
19 correction office at the time.

20 Q. And just to clarify, a dispatch is
21 like a memo?

1 A. Yes. Exactly.

2 Q. So is it fair to say that if one of
3 these complaints with respect to a telemarketer
4 came to your attention such that you needed to
5 take some action, was it always a termination at
6 that point?

7 A. Certainly if it was of some magnitude.
8 There were transgressions for which there was no
9 gradient action, termination was on the spot.

10 Q. What were those transgressions?

11 A. I'd say I terminated four or so people
12 over rudeness. There might even be a few more.
13 If I got a call from a customer, for example. If
14 the customer would call the company over the
15 behavior of our sales rep, that would simply
16 result in termination.

17 Insubordination -- with 40 people on
18 the floor, or thereabouts, sometimes there was
19 30, anywhere between 30 and 40 people -- that
20 would result in usually a termination. There
21 were suspensions handed out as well. So, again,

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1 depending on the magnitude -- any
2 misrepresentation, any evidence of another
3 company from our telemarketer, any gross
4 violation of the verbatim script, instant
5 termination.

6 By the time it got to me, they've
7 already been trained, they've already been
8 corrected, they already know what they should be
9 doing. We work very hard as a company to ensure
10 these people were complying. They drilled it
11 every day. Our managers on the floor would
12 emphasize it every day. So by the time it got to
13 me -- it very rarely got to me, I guess is my
14 answer.

15 Q. Was it part of your responsibilities
16 to listen to the tapes?

17 A. At no time to listen to as many tapes
18 as we made, of course. I would listen to two a
19 week, possibly. I got the report. I would trust
20 the report. A tape would get delivered with it
21 sometimes if it was serious. And then I might

1 listen if I thought it was necessary. That was
2 very rare.

3 Q. Did you ever listen to or have the
4 occasion to listen to verification tapes?

5 A. Rarely. But it did occur, yes.

6 Q. What were the circumstances when you
7 listened to verification tapes?

8 A. A customer service rep, for example,
9 pulled out a tape and was concerned that a
10 verifier was not doing his or her job.

11 Q. And the customer service rep is
12 distinct from the telemarketer?

13 A. Yes.

14 Q. The customer service rep would be in a
15 separate area or division?

16 A. Definitely.

17 Q. What were the customer services rep's
18 responsibilities?

19 A. Handling complaints.

20 Q. From consumers?

21 A. Correct.

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1 Q. Can you recall any other times where
2 you were listening to or you had occasion to
3 listen to third-party verification tapes?

4 A. I have one recollection of a
5 verification tape I heard that resulted in the
6 termination of the verifier, if I'm correct.
7 Again, my recollection is not perfect but I
8 remember a single episode simply because it went
9 too long, if I recall correctly. I'm recalling
10 also that there were other disciplinary matters
11 with this verifier, tardiness and so on. Not an
12 effective employee.

13 Q. Was this during the time that you were
14 at U.S. Bell and Buzz?

15 A. Correct.

16 Q. Do you know who the verifier worked
17 for?

18 A. I don't remember. I don't remember
19 her name even.

20 Q. Do you remember who the verification
21 company was that did the third-party

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1 verification?

2 A. There are a few names and I don't
3 remember them, sorry.

4 Q. Did you have a list or -- I guess the
5 best way to describe this: Did you have a
6 checklist of items that the telemarketers were
7 allowed to say?

8 A. Ask me again please. I'm sorry.

9 Q. Let me ask it in a different way, one
10 that will hopefully be easier. Did you have a
11 checklist of items that telemarketers were not
12 allowed to say?

13 A. No. I think that the answer is no.
14 There was no such qualification list or something
15 like that. There was just a script. That was
16 really the document I had that I needed to stand,
17 whatever. It was called our standard sales
18 pitch.

19 Q. Where would those scripts come from?

20 A. Kurtis wrote every one. But I also
21 think one could request a modification, which he

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1 would approve. So they would always come from
2 the sales division is my point.

3 Q. And to your memory, Kurtis was head of
4 the sales division or oversaw the sales division?

5 A. As per my recollection.

6 Q. Did you ever have occasion to make any
7 modifications or suggest any modifications to the
8 script?

9 A. It was not my responsibility.

10 Q. So would Kurtis come to you with a
11 script and say, This is what I want our new
12 script to be?

13 A. I would simply get copied on it via
14 that communication center.

15 Q. So it was not your responsibility to
16 make sure that all the telemarketers had the
17 script?

18 A. No.

19 Q. Did you have any hiring
20 responsibilities during that time period?

21 A. Yes, sir.

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